



August 19, 2003 CPC
November 18, 2003 CPC
February 17, 2004 CPC
March 10, 2004 BS

**STAFF'S
REQUEST ANALYSIS
AND
RECOMMENDATION**

03SN0307

Douglas R. Sowers

Matoaca Magisterial District
Spring Run Elementary School, Bailey Bridge Middle School
and Manchester High School Attendance Zones
South line of Spring Run Road

REQUEST: Rezoning from Agricultural (A) to Residential (R-12) with Conditional Use Planned Development to permit exceptions to Ordinance requirements.

PROPOSED LAND USE:

A mixture of residential uses, to include single family, condominiums and cluster homes is planned. A total of 217 units is proposed.

PLANNING COMMISSION RECOMMENDATION

RECOMMEND APPROVAL SUBJECT TO THE CONDITION AND ACCEPTANCE OF THE PROFFERED CONDITIONS ON PAGES 2 THROUGH 6.

STAFF RECOMMENDATION

Recommend approval for the following reasons:

- A. The proposed zoning and land uses comply with the Upper Swift Creek Plan which suggests the property is appropriate for single family residential use of 2.2 dwelling units per acre or less.
- B. The proposed zoning and land uses are representative of, and compatible with, existing and anticipated area development.

Providing a FIRST CHOICE Community Through Excellence in Public Service.

- C. The proffered conditions adequately address the impact of this development on capital facilities, as outlined in the Zoning Ordinance and the Comprehensive Plan. Specifically, the need for schools, parks, libraries, fire stations and transportation improvements is identified in the County's adopted Public Facilities Plan, Capital Improvement Program and Thoroughfare Plan and the impact of this development is discussed herein. The proffered conditions adequately mitigate the impact on capital facilities, thereby insuring adequate service levels are maintained and protecting the health, safety and welfare of County citizens.

(NOTE: CONDITIONS MAY BE IMPOSED OR THE PROPERTY OWNER MAY PROFFER CONDITIONS. THE CONDITIONS NOTED WITH "STAFF/CPC" WERE AGREED UPON BY BOTH STAFF AND THE COMMISSION. CONDITIONS WITH ONLY A "STAFF" ARE RECOMMENDED SOLELY BY STAFF. CONDITIONS WITH ONLY A "CPC" ARE ADDITIONAL CONDITIONS RECOMMENDED BY THE PLANNING COMMISSION.)

CONDITION

(STAFF/CPC) With the exception of B.1.n., the Textual Statement dated January 23, 2004, shall be considered the Master Plan. (P)

PROFFERED CONDITIONS

The Owners-Applicants in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the property known as Chesterfield County Tax ID 730-663-3520-00000 (the "Property") under consideration will be developed according to the following conditions if, and only if, the rezoning request for R-12 is granted. In the event the request is denied or approved with conditions not agreed to by the Owners-Applicants, these proffers and conditions shall be immediately null and void and of no further force or effect.

- (STAFF/CPC) 1. (a) Timbering. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed.
- (b) To ensure the existing culvert under Spring Run Road remains adequate for the entire drainage area, the developer shall do one of the following:
- (i) retain water onsite so the existing culvert meets current VDOT criteria for the upstream drainage area; or

(ii) upgrade the existing culvert to meet current VDOT criteria for the upstream area; or

(iii) a combination of (i) and (ii). (EE)

(STAFF/CPC) 2. The public water and wastewater systems shall be used. (U)

(STAFF/CPC) 3. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of each building permit for infrastructure improvements within the service district for the property:

A. \$9,000.00 per dwelling unit, if paid prior to July 1, 2003; or

B. The amount approved by the Board of Supervisors not to exceed \$9,000.00 per dwelling unit adjusted upward by any increase in the Marshall Swift building cost index between July 1, 2002, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2003.

C. Provided, however, that if any building permits issued on the property are for senior housing, the units of which meet the occupancy requirements for "age 55 or over" housing as set forth in Section 3607 of the Fair Housing Act, 42 USC Section 3601 et seq., as amended by the Fair Housing Amendments Act of 1988, and of 24 CFR Section 100.304 in effect as of the date of the Rezoning, and which are subject to the occupancy requirements that no person under 19 shall reside in such unit, the amount approved by the Board of Supervisors, but not to exceed \$4,815 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2003 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2003. At the time of payment, the \$4,815 will be allocated pro-rata among the facility costs as follows: \$598 for parks and recreation, \$324 for library facilities, \$3,547 for roads, and \$346 for fire stations. Payments in excess of \$4,815 shall be prorated as set forth above.

D. Provided further, at the option of the Transportation Department, the cash proffer payment may be reduced by the transportation component (\$3,547 as adjusted in Proffered Condition 3.A.) for improvements performed by the Developer, subdivider or assignee to Spring Run Road to provide twenty-four (24) foot wide pavement with seven (7)

foot wide shoulders with modifications approved by the Transportation Department, from approximately 500 feet east of Bailey Bridge Road eastward for a distance of approximately 2,000 feet (the "Spring Run Road improvements"). The exact length and design of this improvement shall be approved by the Transportation Department. The Developer, subdivider or assignee payment shall be reduced by the transportation component for the Spring Run Road improvements for: 1) the initial seventy-seven (77) dwelling units, if the roadway is widened with an asphalt overlay; or 2) an equivalent number of units for the construction cost, as determined by the Transportation Department, if the roadway is realigned and reconstructed. The Spring Run Road improvements shall be completed as determined by the Transportation Department prior to the recordation of more than a cumulative total of fifty (50) dwelling units or one (1) year from the date of recordation of the initial subdivision plat, whichever occurs first.

Prior to issuance of building permits for those dwelling units in excess of those dwelling units credited above, or if the Developer, subdivider or assignee does not construct the improvements described above as determined by the Transportation Department, the Developer, subdivider or assignee shall commence paying cash proffers in accordance with Proffered Conditions 3.A., B. and C., herein.

- E. If any of the Cash proffers are not expended for the purpose designated by the Capital Improvements Program within fifteen (15) years from the date of payment, they shall be returned in full to the payor. Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the Property, the amount paid in cash proffers shall be in lieu of or credited toward, but not be in addition to, any impact fees, in a manner determined by the County. (B&M and T)

- (STAFF/CPC) 4. Density. The total number of residential units shall not exceed 2.2 units per acre. (P)
- (STAFF/CPC) 5. Transportation.
 - (a) In conjunction with recordation of the initial subdivision plat, forty-five (45) feet of right-of-way along the south side of Spring Run Road, measured from the revised centerline based on VDOT Urban Minor Arterial Standards (50 mph) with

modifications approved by the Transportation Department, of that part of Spring Run Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County.

- (b) To provide an adequate roadway system, the developer shall be responsible for the following improvements:
 - (i) Construction of additional pavement along North Hensley Road at the approved accesses to provided left and right turn lanes, if warranted, based on Transportation Department standards.
 - (ii) Widening/improving the south side of Spring Run Road to an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, with modifications approved by the Transportation Department, for the entire property frontage.
 - (c) Dedication to and for the benefit of Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above.
 - (d) Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition No. 5, shall be submitted to and approved by the Transportation Department.
 - (e) No direct access, except for an emergency access, shall be provided from the property to Hensley Road.
 - (f) No direct access, except for an emergency access, shall be provided from the property to Spring Run Road.
 - (g) Direct access from the property to North Hensley Road shall be limited to two (2) public roads. The exact location of these accesses shall be approved by the Transportation Department.
- (T)

(STAFF/CPC)

6. Phasing. No residential building permits shall be issued until January 1, 2006. Thereafter, a maximum of 100 residential building permits shall be issued prior to January 1, 2007, and a cumulative maximum

of 200 residential building permits shall be issued prior to January 1, 2008. (P)

GENERAL INFORMATION

Location:

Fronts the south line of Spring Run Road, east of Brocket Drive. Also fronts the north line of Hensley Road, west of North Donegal Road. Tax ID 730-663-3520 (Sheet 24).

Existing Zoning:

A

Size:

98.7 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North - A; Single family residential or vacant

South - A; Single family residential or vacant

East - A; Single family residential or vacant

West - A and R-12; Single family residential, public/semi-public (school) or vacant

UTILITIES

Public Water System:

There is an existing sixteen (16) inch water line extending along the north side of Spring Run Road, adjacent to the request site. Use of the public water system is intended and has been proffered. (Proffered Condition 2)

Public Wastewater System:

There is an existing eighteen (18) inch wastewater trunk line, adjacent to Bayhill Point Subdivision, Section 13, extending along a portion of Reedy Branch and terminating approximately 10,600 feet northeast of this site. Use of the public wastewater system is intended and has been proffered. (Proffered Condition 2)

ENVIRONMENTAL

Drainage and Erosion:

The property drains northeast under Spring Run Road, then a short distance via tributaries to an approximate nine (9) acre lake in Camp Holly Dell, and then via tributaries through Clover Hill Farms to Swift Creek. There are no existing or anticipated on- or off-site erosion problems.

There are major drainage problems on Spring Run Road through which this property drains. This section of Spring Run Road is one (1) of the first areas in Chesterfield County which reaches "high water" levels during storm events, at a minimum of four (4) to five (5) times per year. With increasing traffic and additional runoff, this area will flood more often and become even more dangerous.

During development several years ago, a small portion of the Spring Run Elementary School property drained to this culvert under Spring Run Road and the developer was required to construct a detention facility for storm water. The existing undeveloped land in this problem area consists of only one (1), five (5) acre parcel. All other parcels are large lots with well and septic.

The property proposed for rezoning comprises approximately sixty (60) percent of the entire area that drains to the culvert under Spring Run Road, but will contribute even more in water volume. Proffered Condition 1.(b) is intended to ensure the existing culvert under Spring Run Road is adequate to handle area drainage.

The property is wooded and should not be timbered without first obtaining a land-disturbance permit from the Environmental Engineering Department (Proffered Condition 1.(a)). This will ensure adequate erosion control measures are in place prior to any land disturbance.

PUBLIC FACILITIES

The need for fire, school, library, park and transportation facilities is identified in the Public Facilities Plan, the Thoroughfare Plan and the Capital Improvement Program and is further detailed by specific departments in the applicable sections of this "Request Analysis". This development will have an impact on these facilities.

Fire Service:

The Public Facilities Plan indicates that emergency services (EMS) calls are expected to increase forty-five (45) percent by 2015. Eight (8) new fire/rescue stations are recommended for construction by 2015 in the Plan. Based on 217 dwelling units, this request will generate approximately thirty-three (33) calls for fire and EMS services each year. The applicant has addressed the impact on fire service. (Proffered Condition 3)

The Textual Statement indicates an emergency access will be used for condominiums that exceed fifty (50) dwelling units (Textual Statement B.1.n.). It is unclear at this point as to how many dwelling units will be included in the tracts containing condominiums. The fire department opposes the use of emergency accesses as a means of providing access for firefighting and EMS apparatus, especially with no knowledge of how many units will be served. (Condition)

The Winterpock Fire/Rescue Station, Company Number 19, currently provides fire protection and emergency medical service to this area. When the property is developed, the number of hydrants, quantity of water needed for fire protection and access requirements will be evaluated during the plans review process.

Schools:

Approximately 117 students will be generated by this development. Currently, this site lies in the Spring Run Elementary School attendance zone: capacity - 953, enrollment - 1,225; Bailey Bridge Middle School zone: capacity - 1,621, enrollment - 1,631; and Manchester High School zone: capacity - 1,962, enrollment - 2,409.

This request will have an impact on all schools involved. There are currently six (6) trailers at Spring Run Elementary; twenty (20) at Bailey Bridge Middle; and seventeen (17) trailers at Manchester High. One (1) new high school to be built would provide relief for Clover Hill and Manchester High Schools. Bailey Bridge Middle is currently under renovation. The applicant has offered measures to assist in addressing the impact of this development on school facilities. (Proffered Condition 3)

Libraries:

Consistent with the Board of Supervisors' Policy, the impact of development on library services is assessed County-wide. Based on projected population growth, the Public Facilities Plan identifies a need for additional library space throughout the County. Even if the facility improvements that have been made since the Public Facilities Plan was adopted are taken into account, there is still an unmet need for additional library space throughout the County.

The proposed development would most likely have a direct impact on the Clover Hill Library or on a new proposed branch identified in the Public Facilities Plan in the vicinity of Beach Road. This proposal addresses the impact on library facilities. (Proffered Condition 3)

Parks and Recreation:

The Public Facilities Plan identifies the need for two (2) new regional parks in the County by 2015. Additionally, the proposed development would generate the need for neighborhood parks, as discussed in the Public Facilities Plan. The applicant has offered measures to assist

in addressing the impact of this proposed development on parks and recreation facilities. (Proffered Condition 3)

Transportation:

The property (98.7 acres) is currently zoned Agricultural (A). The applicant is requesting rezoning to Residential (R-12) with Conditional Use Planned Development. The applicant has proffered that the development will not exceed 2.2 units per acre (Proffered Condition 4). Based on single family trip rates, development could generate approximately 2,080 average daily trips. These vehicles will be distributed along the proposed North Hensley Road to Spring Run Road, which had a 2003 traffic count of 4,955 vehicles per day.

The Thoroughfare Plan identifies Spring Run Road as a major arterial with a recommended right of way width of ninety (90) feet. The applicant has proffered to dedicate forty-five (45) feet of right of way, measured from a revised centerline of Spring Run Road, in accordance with that Plan. (Proffered Condition 5.(a))

The Thoroughfare Plan also identifies a proposed north/south major arterial (North Hensley Road) extending from Hensley Road, northward along the western boundary of the subject property to Spring Run Road. North Hensley Road is currently under construction. This road is being built with development of an adjacent residential project (Collington Subdivision), located southwest of the subject property.

Access to major arterials, such as Spring Run Road and North Hensley Road, should be controlled. The applicant has proffered that no direct access (except for an emergency access) will be provided from the property to Spring Run Road, and that direct access to North Hensley Road will be limited to two (2) public roads (Proffered Conditions 5.(f) and (g)). The applicant has also proffered that no direct access (except for an emergency access) will be provided from the property to Hensley Road. (Proffered Condition 5.(e))

This request will allow development of single family residences including cluster homes, and condominiums. Staff recommends that all of the main streets that serve the condominium units be accepted into the State Highway System. Having these streets accepted into the State Highway System will insure their long-term maintenance. The applicant has agreed that all streets, which accommodate general traffic circulation, will be designed and constructed to State (i.e., the Virginia Department of Transportation) standards and taken into the State System (Textual Statement B.1.(v)). The Textual Statement allows staff to approve private streets within the condominium development, if it is determined that they cannot be designed to State standards. If staff approves any private streets, the Textual Statement also requires the developer to provide a plan for their continual maintenance.

The traffic impact of this development must be addressed. The applicant has proffered to: 1) construct left and right turn lanes along North Hensley Road at each public road intersection based on Transportation Department standards; and 2) widen the south side of Spring Run Road to a total travel way width of eleven (11) feet measured from the centerline with an

additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder for the entire property frontage (Proffered Condition 5.(b)). Based on Transportation Department standards, left- and-right turn lanes along North Hensley Road will be warranted at both public road intersections.

Area roads need to be improved to address safety and accommodate the increase in traffic generated by this development. Spring Run Road will be directly impacted by development of this property. Sections of this road have nineteen (19) foot wide pavement with no shoulders, with substandard horizontal alignments. Based on the current volume of traffic during peak hours, Spring Run Road is at capacity (Level of Service E). As development continues in the area, traffic volumes on Spring Run Road and other roads will substantially increase. The only road improvement projects in this area currently included in the Six-Year Improvement Plan are "spot" improvements, including: 1) realigning two (2) curves on Spring Run Road, north of Bailey Bridge Road (anticipated construction Summer 2007); and 2) realigning a curve on Bailey Bridge Road, near Deer Run Subdivision (anticipated construction Summer 2006). Providing needed improvements to Spring Run Road and other substandard roads will require additional public funds, in addition to cash proffers.

The applicant has proffered to contribute cash, in an amount consistent with the Board of Supervisors' Policy, towards mitigating the traffic impact of this development (Proffered Condition 3). The proffer would allow a section of Spring Run Road to be improved from approximately 500 feet east of Bailey Bridge Road eastward for a distance of approximately 2,000 feet, in exchange for equivalent cash proffer payment (Proffered Condition 3.D.). Specifically, at the option of the Transportation Department, the applicant will either: 1) pay full cash proffer; or 2) widen and overlay the section of Spring Run Road and receive credit from the transportation component of the cash proffer for the initial seventy-seven (77) units (credit approximately equivalent to \$274,000); or 3) reconstruct/realign the section of Spring Run Road and receive credit from the transportation component of the cash proffer for an equivalent number of lots for the construction cost that will be determined by the Transportation Department at a later date. The applicant's proffer requires that the improvements to Spring Run Road be provided in conjunction with the initial development of the property (i.e., prior to recordation of more than fifty (50) lots or within one (1) year from the date of recording the initial subdivision plat, whichever occurs first). If others provide improvements to this section of Spring Run Road, the Transportation Department will require the cash payment.

Staff calculated the value of the Spring Run Road widening cash proffer credit based solely on limited construction estimates from other projects. Staff will use bid proposals to assist in determining the value of the Spring Run Road reconstruction cash proffer credit. The actual cost of the improvements cannot be determined until the work is completed, and may be more or less than the estimated amounts.

At time of tentative subdivision review, specific recommendations will be provided regarding access and the proposed internal street network.

Financial Impact on Capital Facilities:

		PER UNIT
Potential Number of New Dwelling Units	217*	1.00
Population Increase	590.24	2.72
Number of New Students		
Elementary	52.08	0.24
Middle	28.21	0.13
High	36.89	0.17
TOTAL	117.18	0.54
Net Cost for Schools	1,051,799	4,847
Net Cost for Parks	150,381	693
Net Cost for Libraries	81,375	375
Net Cost for Fire Stations	87,017	401
Average Net Cost for Roads	891,653	4,109
TOTAL NET COST	2,262,225	10,425

*Based on a proffered maximum of 2.2 units to the acre. The actual number of units and corresponding impact may vary.

As noted, this proposed development will have an impact on capital facilities. Staff has calculated the fiscal impact of every new dwelling unit on schools, roads, parks, libraries and fire stations at \$10,425 per unit. The applicant has been advised that a maximum proffer of \$9,000 per unit would defray the cost of the capital facilities necessitated by this proposed development. The applicant has been further advised that a maximum proffer of \$4,815 per unit would defray the cost of capital facilities necessitated by development of the age-restricted portion of the proposed development, as it will not have an increased impact on school facilities. Consistent with the Board of Supervisors' Policy, and proffers accepted from other applicants, the applicant has offered cash, with an option to provide road improvements, to assist in defraying the cost of this proposed zoning on such capital facilities. Under this option, the cash proffer would be reduced by the road component at a minimum, on the initial seventy-seven (77) units. (Proffered Condition 3)

Note that circumstances relevant to this case, as presented by the applicant, have been reviewed and it has been determined that it is appropriate to accept the maximum proffer in this case.

LAND USE

Comprehensive Plan:

Lies within the boundaries of the Upper Swift Creek Plan which suggests the property is appropriate for single family residential use of 2.2 dwelling units per acre or less.

Area Development Trends:

The area is characterized by single family residential development on acreage parcels, public/semi-public use (Spring Run Elementary School) or is vacant. The Upper Swift Creek Plan anticipates residential development continuing in the area.

Site Design:

The property is to be developed with condominiums, cluster homes and/or single family residential uses, all of which are discussed in further detail herein. If the property is developed for two (2) or more dwelling types, the Textual Statement requires submission of a conceptual plan to either the Planning Commission or Planning Department for approval. At the time of review of a conceptual plan, conditions may be imposed to insure land use compatibility and transition (Textual Statement, A.3.). Where common areas are to be provided within the development, the Textual Statement requires that ownership and maintenance responsibilities be established. (Textual Statement, A.1.)

Density:

A maximum of 2.2 dwelling units per acre has been proffered, yielding approximately 217 dwelling units. (Proffered Condition 4)

Condominiums:

For any condominium development, to include any part of a tract developed for such, density would be limited to six (6) units per gross acre and would be regulated by the Virginia Condominium Act. (Textual Statement, B.1.b) and c))

The number of dwelling units in individual buildings would be limited to maximum of ten (10) (Textual Statement, B.1.a)). Other restrictions address building height, architectural treatment, setbacks, provisions of sidewalks, curb and gutter, driveway width, emergency access, buffers, recreation areas, landscaping, buffers, provisions of street trees, garage orientation and storm water management facilities. (Textual Statement, B.1.)

The requirements offered for condominium projects are consistent with those typically required by the Commission and Board on similar projects recently approved.

Cluster Homes:

Cluster homes are to be developed on individual lots having a minimum of 6,000 square feet. The density for any cluster development would be limited to six (6) units per gross acre (Textual Statement, B.2.b)). Other restrictions include architectural treatment, setbacks, provision of sidewalks, buffers, treatment of driveways, recreation areas, landscaping, garage orientation and storm water management facilities. (Textual Statement, B.2.)

The requirements offered for cluster projects are consistent with those typically required by the Commission and Board on similar recently approved projects.

Single Family Residential:

Single family residential uses would be required to be developed in accordance with Zoning Ordinance requirements for Residential (R-12) Districts and at a density not to exceed 2.2 dwelling units per acre. (Proffered Condition 4)

Any single family dwelling unit, except condominiums or clusters, would be required to have minimum floor areas: 1,700 square feet for one (1) story and 2,000 square feet for more than one (1) story (Textual Statement, B.3.a.))

The Textual Statement would require the recordation of restrictive covenants for any residential development, other than cluster and condominium uses. It should be noted that the County will only insure the recordation of the covenants and will not be responsible for their enforcement. Once the covenants are recorded, they can be changed. (Textual Statement, B.3.d))

Phasing:

In response to concerns relative to the impact of the development on area roads, a proffered condition was submitted for the phasing of the development. Ultimate build out will not occur until 2008 or later. (Proffered Condition 6)

Recreation Area:

The applicant has agreed to provide a minimum of 1.5 acres within or conveniently accessible to each condominium and cluster home development, for all condominium and cluster home developments within the entire project. Within each 1.5 acre site, the applicant plans to provide a minimum 0.75 acre area, located and positioned to provide a "focal point" as one (1) enters the condominium or cluster home development. Benches and other amenities are to be provided in a portion of this area to facilitate outdoor gatherings. (Textual Statement, B.1.o) and 2.j))

The applicant may also provide active and passive recreation areas within the development. The Textual Statement provides for setbacks, buffers and other restrictions to minimize the

impact of such recreational facilities on surrounding residential uses. (Textual Statement, B.3.b))

Within any condominium development, children's play facilities such as playground equipment or other facilities primarily associated with children's play would be prohibited. (Textual Statement, B.1.p))

CONCLUSIONS

The proposed zoning and land uses comply with the Upper Swift Creek Plan which suggests the property is appropriate for single family residential use of 2.2 dwelling units per acre or less. The density proposed by this application is 2.2 units per acre. With the Textual Statement and proffered conditions, the proposed zoning and land uses are representative of, and compatible with, existing and anticipated area development.

The proffered conditions adequately address the impact of this development on necessary capital facilities, as outlined in the Zoning Ordinance and the Comprehensive Plan. Specifically, the need for schools, parks, libraries, fire stations and transportation improvements is identified in the County's adopted Public Facilities Plan, Capital Improvement Program and Thoroughfare Plan and the impact of this development is discussed herein. The proffered conditions adequately mitigate the impact on capital facilities, thereby insuring adequate service levels are maintained and protecting the health, safety and welfare of County citizens.

Given these considerations, approval of this request is recommended subject to addressing concerns relative to provision of a second access to the condominium development, as discussed in the "Fire" section of this "Request Analysis".

CASE HISTORY

Planning Commission Meeting (8/19/03):

At the request of the applicant, the Commission deferred this case to the Commission's November 18, 2003, public hearing.

Staff (8/20/03):

The applicant was advised in writing that any significant new or revised information should be submitted no later than September 15, 2003, for consideration at the Commission's November 18, 2003, public hearing. Also, the applicant was advised that a \$250.00 deferral fee must be paid prior to the Commission's public hearing.

Applicant (9/3/03):

The applicant paid the \$250.00 deferral fee.

Staff (10/29/03):

To date, no new information has been received.

Planning Commission Meeting (11/18/03):

At the request of the applicant, the Commission deferred this case to February 17, 2004.

Staff (11/19/03):

The applicant was advised in writing that any significant new or revised information should be submitted no later than December 15, 2003, for consideration at the Commission's February 17, 2004, public hearing. Also, the applicant was advised that a \$250.00 deferral fee must be paid prior the Commission's public hearing.

Applicant (12/4/03):

The \$250.00 deferral fee was paid.

Applicant (1/30/04 and 2/6/04):

Revised proffered conditions and Textual Statement were submitted.

Applicant (2/13/04):

The part of the request for an exception to the requirements for a second access was withdrawn. In addition, to address concerns of the Matoaca District Commissioner, the applicant submitted an additional proffered condition requiring phasing of the development.

Applicant (2/17/04):

The applicant submitted a revision to the previously submitted cash proffer which would allow road improvements in exchange for equivalent cash proffer payment.

Planning Commission Meeting (2/17/04):

The applicant accepted the recommendation. There was support present.

On motion of Mr. Bass, seconded by Mr. Litton, the Commission recommended approval of this request subject to the Condition and acceptance of the proffered conditions on pages 2 through 6.

AYES: Unanimous.

The Board of Supervisors, on Wednesday, March 10, 2004, beginning at 7:00 p.m., will take under consideration this request.

TEXTUAL STATEMENT

May 16, 2003
Amended January 23, 2004

This is a request to rezone the entire Property to R-12 with a Conditional Use Planned Development (CUPD) that will permit development of a mixed use, planned community including single family residences, condominiums and cluster homes. Except as qualified herein, uses permitted in the Residential (R- 12) District and active and passive recreation uses shall be permitted throughout the property. In addition, the following uses, as more fully defined below, shall also be permitted:

A. **General Requirements Applicable to All Uses**

1. **Common Areas.** Common areas and ownership of property shall be regulated by Section 19-559 of the County Zoning Ordinance.
3. **Mixing of Uses.** There shall be no "mixing" of uses (e.g., if The Property is to be developed for condominiums, all of the property shall be developed as condominiums, or if The Property is developed for Residential (R-12) uses, all of The Property shall be developed for Residential (R-12) uses).

Provided, however, the mixing of uses may be permitted if a conceptual plan is submitted for review and approval and the conceptual plan addresses land use transitions and compatibility between uses within the Property itself as well as with adjacent properties. Land use compatibility and transitions may include, but not necessarily be limited to, the exact location of uses, buffers, and site design.

Such conceptual plan shall be approved by either the Planning Department or the

Planning Commission, at the election of the developer, and such review shall be subject to appeal in accordance with sections 19.268(d) and 19-269(e) of the County Code.

B. Requirements for Specific Uses

1. Condominiums

Condominiums shall meet the following requirements:

- a) Number of Units Per Building. No more than ten (10) dwelling units shall be permitted in any one building;
- b) Virginia Condominium Act. Dwelling units shall be condominiums as defined and regulated by the Virginia Condominium Act;
- c) Density. The overall density shall not exceed six (6) dwelling units per gross acre;
- d) Lot Coverage. All buildings, including accessory buildings, shall not cover more than forty (40) percent of the area devoted to the condominium development;
- e) Building Height. The maximum height of all buildings and structures shall be three (3) stories or forty (40) feet, whichever is less;
- f) Architectural Appearance. The architectural appearance and materials of buildings containing not more than four (4) units shall be similar to the elevations attached as Exhibits B and C, and employ the following materials: brick veneer, composition siding and 20 year asphalt shingles, or shall be of at least similar quality, as determined by the Planning Commission at time of site plan review. The architectural appearance and materials of buildings containing more than four (4) units shall be similar to the elevations attached hereto as Exhibits D, E, and F, or shall be of similar quality as determined by the Planning Commission at time of site plan review;
- g) Building Setbacks from Roads and Driveways. All structures shall be set back a minimum of ten (10) feet from roads and driveways except as provided in paragraph (s); provided that no setback shall be required from driveways that serve garages or parking spaces of individual dwelling units and do not provide

general circulation within the condominium development ("Individual Driveways");

- h) Building Setbacks from Perimeter of Tract. All structures shall be setback a minimum of fifty (50) feet from the perimeter of the Tract or from the perimeter of the area devoted to condominium development. All perimeter yards shall be planted per the requirements of Perimeter Landscaping C of the Zoning Ordinance.
- i) Distance Between Buildings. The minimum distance between buildings shall be thirty (30) feet;
- j) Driveway and Parking Setbacks. Except as provided in paragraph (s), all driveways and parking areas shall be setback a minimum of fifteen (15) feet from the right-of-way of any existing or proposed right-of-way except that the setback adjacent to Hensley Road or any collector road external to the condominium development shall be fifty (50) feet;
- k) Sidewalks. Sidewalks shall be provided that facilitate pedestrian access within the Development, to the recreational areas in the Development, and to the overall project. The exact location and design of the sidewalks shall be determined by the County at the time of site plan review; provided, however, that, unless otherwise approved by the Planning Commission at time of site plan approval upon a determination that an alternative system will accomplish the spirit and intent of this requirement, sidewalks shall be installed on those portions of both sides of all roads that have condominiums fronting the road, but not along Individual Driveways;
- l) Curb and Gutter. Roads, driveways (with the exception of Individual Driveways), and parking areas shall have concrete curbs and gutters unless it is determined at the time of site plan review that the curbs and gutters are not necessary to effect proper drainage or to control traffic;
- m) Driveway Width. Unless otherwise approved by the Planning Commission at time of site plan review upon a determination that a lesser driveway width will provide adequate access, driveways shall have a minimum pavement width of twenty four (24) feet, provided that driveways that provide the primary access directly to a public road shall have a minimum pavement width of thirty (30) feet, and Individual Driveways serving not more than four (4) dwellings shall have a minimum pavement width of seventeen (17) feet;
- n) Emergency Access. A second road access shall be provided from any Condominium development to a public road prior to occupancy of more than fifty

(50) units. Subject to approval at the time of site plan review, such second access may be designed and constructed to accommodate traffic only in an emergency situation, provided that such emergency access will facilitate emergency traffic movements as adequately as a public road access;

- o) Recreation Area. A minimum of 1.5 acres included within, or conveniently accessible to, each condominium development shall be provided for suitable active and passive outdoor recreational use by the occupants. A minimum of 0.75 acres of this 1.5 acre open space/recreation area shall be located and positioned to provide a "focal point" as one enters each condominium development. Part of this area shall be "hardscaped" and have benches and other amenities that accommodate and facilitate outdoor gatherings. This area shall be developed concurrently with the development of the first phase of each condominium development, and its exact design and location approved at the time of site plan review.
- p) Restriction on Children's Play Facilities. The common area recreational amenities shall not include playground equipment, play fields or other facilities primarily associated with children's play. Adult facilities including, but not limited to, swimming pools, putting greens or shuffleboard may be permitted;
- q) Street Trees. Street trees shall be planted or retained along each side of roads and driveways except for Individual Driveways. The exact spacing, species and size shall be approved at the time of site plan review.
- r) Landscaping. Landscaping shall be provided around the perimeter of all buildings, between buildings and driveways, within medians, and within common areas not occupied by recreational facilities or other structures. Landscaping shall comply with the requirements of the Zoning Ordinance, Sections 19-516 through 19-518(f). Landscaping shall be designed to: minimize the predominance of building mass and paved areas; define private spaces; and enhance the residential character of the development. The exact number, spacing, arrangement and species shall be approved at the time of site plan review;
- s) Buffers. A fifty (50) foot buffer shall be maintained adjacent to Hensley Road and any other public road which is a major arterial, and a thirty-five (35) foot buffer shall be maintained adjacent to any public road that is an internal collector road. At the time of site plan review, the width of this buffer may be modified if it is determined that adequate landscaping or other treatment to minimize the impact of adjacent roads on residences can be accomplished in a lesser width. The exact treatment of the buffer area shall be approved at the time of site plan review. This buffer area shall be maintained as common open space.

- t) Garages. All dwellings that provide a garage shall employ side or rear entry garage designs except that front entry garages may be permitted if the Planning Commission determines at time of site plan review that, based on the design of individual units, front entry garages would not have an adverse effect on the streetscape.
- u) Storm Water Management Facilities or BMPs. Any open basins required for water quantity or quality control that are visible from public roads or from residences shall be landscaped or otherwise improved so that the facilities become visual enhancements to, and amenities for, the uses developed within the condominium development. At the time of site plan review, a plan depicting this requirement shall be submitted to the Planning and Environmental Engineering Departments for review and approval.
- (v) All roads that accommodate general traffic circulation through the development, as determined by the Transportation Department, shall be designed and constructed to state standards and taken into the state system. This condition may be modified by the Transportation Department if it is determined that the roads or any part of such roads cannot be designated for state acceptance. Setbacks from the public roads shall be as identified for special access streets pursuant to Section 19-505(b) of the Zoning Ordinance. For any roads which accommodate general traffic circulation through the development that are not to be a part of the state system, a plan that insures the continual maintenance of the private streets shall be submitted to, and approved by, the Transportation Department.

2. Cluster Homes

Single family detached cluster homes shall meet the following requirements:

- a) Lot Size. The minimum lot size shall be as follows: a fifty (50) foot minimum lot width; and a six thousand (6,000) square foot minimum lot area;
- b) Density. The overall density shall not exceed six (6) units per gross acre;
- c) Architectural Appearance. The architectural appearance and materials of cluster homes shall be similar to the elevations attached as Exhibits G and H, which depict vinyl siding and twenty year fiberglass shingles, or shall be of at least similar quality, as determined by the Planning Commission at the time of tentative subdivision approval.
- d) Front, Corner Side and Rear Yard. For principal structures, front, corner side and rear yards shall have a minimum depth of twenty-five (25) feet. Accessory structures shall

have a twenty-five (25) foot front yard setback but no rear yard setback;

- e) Side Yards. Principal structures shall be located no more than five (5) feet from one side property line, no less than ten (10) feet from the opposite side property line, and among every group of three (3) adjacent dwellings fronting on the same street there shall be a minimum of twenty (20) feet of space between at least two (2) of them; provided, however, that, if the overall intent of providing visual separation and clustering is achieved for the cluster home development, the Planning Commission, at time of tentative subdivision review, may approve exceptions to these side yard requirements. Accessory structures shall have no side yard setback;
- f) Sidewalks. Sidewalks shall be provided that facilitate pedestrian access within the Development, to the recreational areas serving the Development, to Spring Run Elementary School and to the overall project. The exact location and design of the sidewalks shall be determined by the County at the time of tentative subdivision review; provided, however, that, unless otherwise approved by the Planning Commission at time of subdivision review upon a determination that an alternative system will accomplish the spirit and intent of this requirement, sidewalks shall be installed on those portions of both sides of all roads that have cluster homes fronting on the road;
- g) Buffers. Buffers Shall comply with Section 17-70 of the Subdivision Ordinance along roads and shall be located within recorded open spaces.
- h) Paved Driveways. All dwelling units shall have paved driveways. The exact treatment shall be approved at the time of tentative subdivision plan review;
- i) Landscaping. Landscaping shall be provided around the perimeter of all buildings, between buildings and driveways, within medians, and within common areas not occupied by recreational facilities or other structures. Landscaping shall comply with the requirements of the Zoning Ordinance, Sections 19-516 through 19-518(f). Landscaping shall be designed to: minimize the predominance of building mass and paved areas; define private spaces; and enhance the residential character of the development. The exact number, spacing, arrangement and species shall be approved by the Planning Department prior to issuance of any building permit;
- j) Recreation Area. A minimum of 1.5 acres included within, or conveniently accessible to, each cluster home development shall be provided for suitable active and passive outdoor recreational use by the occupants. A minimum of 0.75 acres of this 1.5 acre open space/recreation area shall be located and positioned to provide a "focal point" as one enters each cluster home development. Part of this area shall be "hardscaped" and have benches and other amenities that accommodate and facilitate outdoor gatherings. This area shall be developed concurrently with the development of the first phase of each cluster home development, and its exact design and location shall be approved at the

time of tentative subdivision review.

- k) Garages. All dwellings that provide a garage shall employ side or rear entry garage designs except that front entry garages may be permitted if the Planning Commission determines at time of site plan review that, based on the design of individual units, front entry garages would not have an adverse effect on the streetscape.
- l) Storm Water Management Facilities or BMPs. Any open basins required for water quality or quantity control that are visible from public roads or from residences shall be landscaped or otherwise improved so that the facilities become visual enhancements to, and amenities for the uses developed within the cluster home development. At the time of tentative subdivision review, a plan depicting this requirement shall be submitted to the Planning and Environmental Engineering Departments for review and approval.
- m) Street Trees. Street trees shall be planted or retained along each side of roads and driveways except for Individual Driveways. The exact spacing, species and size shall be approved at the time of site plan review.

3. **Residential (R-12)**

All dwellings other than Condominiums and Cluster Homes shall meet the requirements of the Residential (R-12) District as well as the following requirements:

- a) Minimum Square Footage for Single Family Dwellings. With the exception of Cluster Homes or Condominiums, the minimum gross floor area for single family detached homes shall be as follows:

1 story	1,700 square feet;
More than 1 story	2,000 square feet;
- b) Recreation Areas. At the election of the developer, active and passive recreation areas may be provided. Such recreation areas shall be subject to the following requirements:
 - (i) With the exception of playground areas which accommodate swings, jungle gyms, or similar facilities and tennis courts, all outdoor play fields, swimming pools and similar active recreational areas shall be located a minimum of one hundred (100) feet from adjacent properties zoned or designated on the County's Comprehensive Plan for residential use, a minimum of

one hundred (100) feet from any existing or proposed single family residential lot line, and a minimum of fifty (50) feet from any existing or proposed road;

- (ii) Within the one hundred (100) and fifty (50) foot setbacks, a fifty (50) foot buffer shall be provided along the perimeter of all active recreational facilities except where adjacent to any existing or proposed road. This buffer shall conform to the requirements of Section 19-521 (a) through (h) and 19-522(a)(2) of the Zoning Ordinance for fifty (50) foot buffers;
- (iii) Any playground areas (i.e. areas accommodating swings, jungle gyms or similar such facilities) and tennis courts shall be located a minimum of forty (40) feet from all property lines. A forty (40) foot buffer shall be provided along the perimeter of these recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of Sections 19-521 (a) through (h) and 19-522(a)(2) of the Zoning Ordinance for fifty (50) foot buffers.
- (iv) Nothing within this condition shall prevent development of indoor facilities and/or parking within the one hundred (100) foot setback;
- (v) There shall be no outside public address system or speakers;
- (vi) Exterior lighting for recreational uses shall comply with Section 19-573 of the Zoning Ordinance, and the maximum height for light posts shall not exceed twenty (20) feet.
- (vii) The location of all active recreational uses shall be identified in conjunction with the submittal of the first tentative subdivision plan;
- (viii) In conjunction with the recordation of any lot adjacent to active recreational area(s), such area(s) shall be identified on the record plat along with the proposed recreational uses and required conditions;

- d) Covenants. For all properties containing single family detached dwellings (except Cluster Homes and Condominiums), the following Declaration of Restrictions shall be recorded in conjunction with the recordation of any subdivision plat:

THE OWNERS do hereby declare that said property is to be held, owned, conveyed, used

and occupied subject to the following restrictive covenants:

- (i) An Architectural Review Committee, hereinafter called "ARC" shall be comprised of Douglas R. Sowers, his heirs, personal representatives, successors, and assigns, any of which may act. The ARC shall coordinate each residence and lot and shall establish reasonable rules and regulations relating to the procedure for architectural approvals and general guidelines for architectural plans according to the following architectural guidelines:

All plans to be approved prior to commencement of construction on each lot. House location to be approved prior to construction.

Roof

Minimum 7/12 pitch
Minimum 12" overhang
No uncolored galvanized flashing

Foundation

Brick foundations
Brick or stone on chimney chases

Dwelling

Main body of house to be a minimum of 30 feet in width
No single story homes adjacent to each other

Stoops and walks

Brick stoops or painted fir (no salt treated stoops except when approved by ARC)
Minimum 40 sq. ft.
Concrete sidewalks
Painted lattice under front porches - painted risers on steps, painted pickets and painted band on front porches

Siding

Panel shutters on front windows
Minimum 1 x 6 rake and fascia boards
No T1-11 siding

Landscaping

\$300 allowance for shrubs White painted mailbox and lamp post consistent throughout subdivision

Builder to leave as many trees as possible over 6 inches at the base

Base

3 color exterior paint except for 2 colors if painted white

Satellite Dishes and swimming pool design, location and screening to be approved prior to installation.

The ARC reserves the right to modify the above restrictions or any other imposed deed restrictions in all or in part without notice. In addition, the ARC reserves the right to make special exceptions to these conditions on an individual basis; however, any special exception(s) shall not be deemed as waiver of the restriction(s) as they may apply in the future.

The ARC reserves the right to disallow construction of architecturally similar homes adjacent to each other.

The ARC shall not be liable to any Owner or to any other person on account of any claim, liability, damage, or expense suffered or incurred by or threatened against an Owner or such other person arising out of or in any way relating to the subject matter of any review, acceptances, inspections, permissions, consents, or required approvals which must be obtained from the ARC whether given, granted or withheld.

- ii) No repairs, changes in color, excavations, changes in grade, major landscaping, or other work which in any way alters the exterior appearance of any Lot or improvement located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by Douglas R. Sowers, his successors and/or assigns, to an owner (including clearance of trees and vegetation, driveways, entrance ways, fences, mailboxes, and lamp post structures), shall be made or done until the plans, specifications, working drawings, and proposals for the same showing the nature, kind, shape, type, color, materials, and location of the improvements on the Lot and a landscaping plan shall have been submitted to and approved in writing a~ to harmony of external design and location in relations to surrounding structures, topography. and applicable governmental requirements by the ARC.
- iii) All easements along road frontage and lot lines as may be shown on any

subdivision plat are hereby reserved unto the developer, his personal representatives, heirs, assigns, or agents, for the purpose of drainage or furnishing light, telephone or any other utility to the property.

- iv) Lots shall be occupied and used as follows:
 - a) Lots shall be used for private residential purposes only and no building of any kind whatsoever shall be erected or maintained thereon except for:
 - (1) One private dwelling house with each dwelling being designated for occupancy by a single family.
 - (2) Private garages for the sole use of the respective owners of the Lots upon which such garages are erected.
 - b) A single building for the storage of non-commercial vehicles, boats, equipment, and tools used in maintenance of the Lot upon which erected.
- v) No building shall be located on any Lot nearer to any street or to a side line than is permitted under the applicable local zoning ordinance in effect at the time such building is constructed.
- vi) No structure of a temporary character, trailer, basement, tent) shack, garage, barn, or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently.
- vii) The construction of any structure on a Lot shall be completed within a period of nine (9) months after the beginning of construction. During construction, the Lot shall be maintained in a clean and uncluttered condition, free of unnecessary accumulation of waste and building debris.
- viii) It is the responsibility of each Owner to prevent the development of any unclean, unsightly, or unkempt condition of buildings or grounds on his Lot. All improvements on each Lot shall be kept in good repair, and, where necessary, painted on a regular basis. No portion of the property shall be used or maintained as a dumping ground for rubbish. Outdoor burning of leaves, trash or other debris shall not be permitted. All trash, garbage, and other waste shall be kept in sanitary containers which shall be surrounded by wooden screening with such screening being approved by the ARC, or otherwise out of sight from the street.
- ix) No nuisance or offensive activity shall be permitted or maintained upon any Lot, nor shall any poultry, hogs, rabbits, cattle or other livestock be kept thereon with

the exception of dogs, cats or other normal household animals kept as pets thereon in numbers not exceeding those permitted by the law, provided they are not kept, bred or maintained for any commercial purposes, and must be kept under control of their owner when outside owner's premises, nor constitute a nuisance in the opinion of the ARC, its successors or assigns. No use shall be made of any Lot which will depreciate or adversely affect the surrounding Lots or the property.

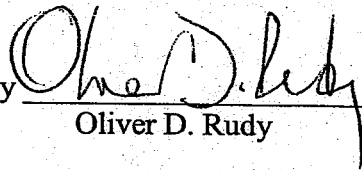
- x) Each residence constructed on a Lot shall be connected to a public sewer.
- xi) No Lot shall be further subdivided without prior written consent of the ARC. However, the developer hereby expressly reserves for itself, its successors, and assigns, the right to re-subdivide any Lot or Lots shown on any recorded plan of subdivision of the property prior to the delivery of a deed to said Lot or Lots without the prior written consent of any Lot Owner.
- xii) Except for emergencies, which emergencies must be proven to the satisfaction of the ARC, no trees with a diameter of six (6) inches or more, measured two (2) feet from the ground, no flowering trees, shrubs, or evergreens may be cleared from any Lot without prior written permission of the ARC. In the event a Lot Owner violates this covenants the Lot Owner will be fined \$25.00 per inch for every such tree removed and it shall be assumed that each tree had a diameter of twelve (12) inches.
- xiii) No commercially licensed vehicles, motor vehicles, recreational vehicles, boats, disabled vehicles, vehicles without a current state license or state inspection sticker, machinery, or other equipment shall be visible from the street for a period exceeding twenty-four (24) hours. Any screening of such vehicles must be approved by the ARC. This covenant shall not apply to vehicles and equipment used in connection with construction upon Lots, while such construction is in progress, or in connection with the development of the property. It shall be the responsibility of each Owner to construct and maintain suitable and adequate parking space on his Lot and all vehicles shall be parked thereon.
- xiv) The operation of unlicensed motor bikes, ATV's, and motorcycles on the lots and entrance area shall be subject to regulation by the Owners and may be prohibited entirely.
- xv) No external illumination on any Lot shall be of such a character or intensity or so located as to interfere with any other Owners use or enjoyment of his Lot. No neon or flashing lights shall be permitted. All external lighting must be approved as to size and intensity by the ARC.
- xvi) Except during construction, no signs of any kind shall be displayed to the public

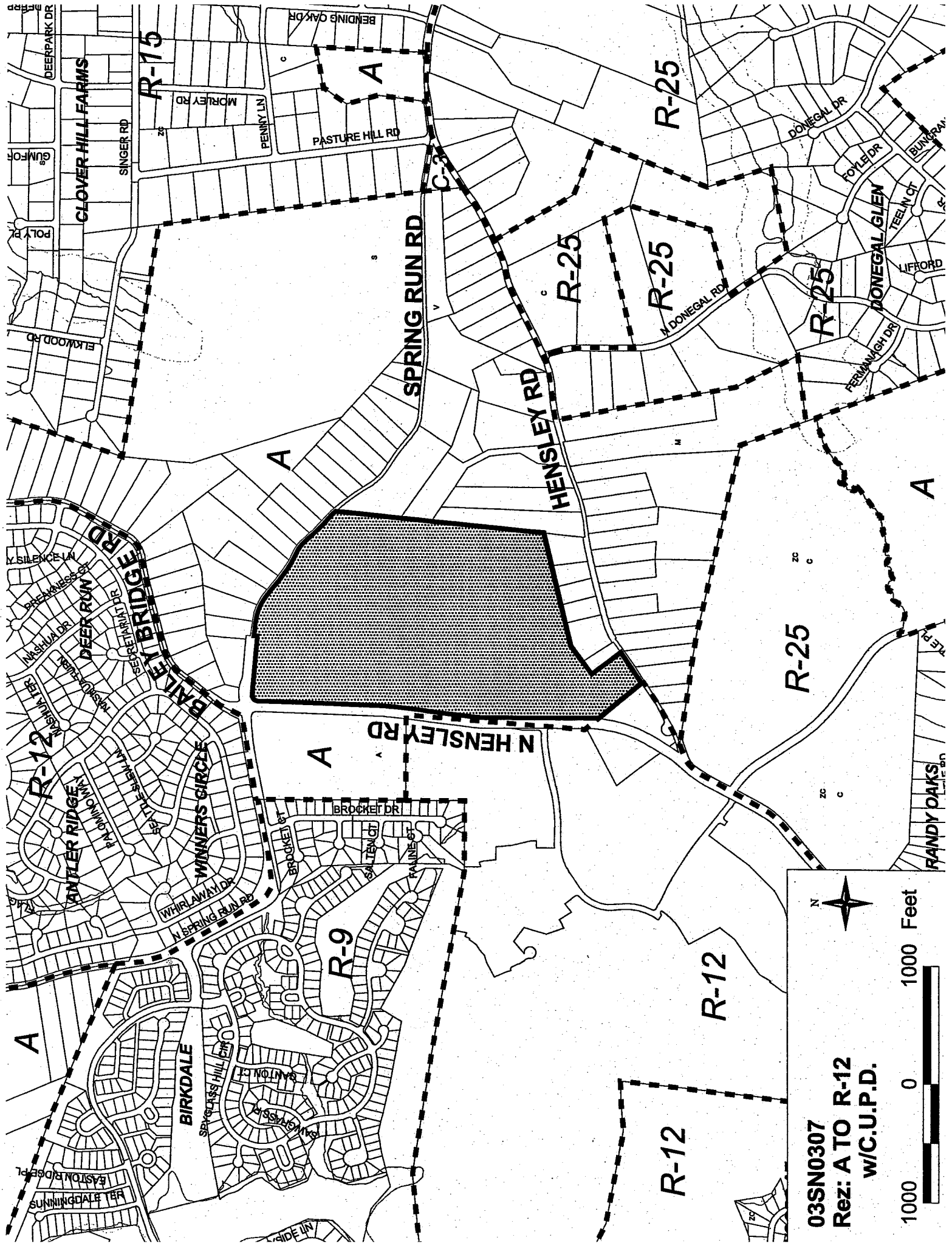
view on any lot except:

- a) One sign not exceeding four (4) square feet in areas used for the purpose of advertising the Lot for sale or rent: and
 - b) One sign not exceeding four (4) square feet in area which identifies the resident occupying the Lot, the name of the Lot, or both.
- xvii) No temporary, portable, or above-ground swimming pools may be erected on any Lot that will be visible from the street.
- xviii) No outside antennas, television or otherwise, shall be permitted; provided, however, that until cable television becomes available to the property, exterior television antennas shall be permitted, provided that they do not extend more than five (5) feet past the roof line of any dwelling. No satellite dishes shall be visible from the street.
- xix) No construction shall be permitted without appropriate erosion control so as to prevent the discharge of any soil or other material onto any other Lot or Common Area. The ARC may establish reasonable rules and regulations establishing a maximum percentage of any Lot which may be covered by a building, driveway or other structure
- xx) No fences or walls not constituting a part of a building shall be erected, placed or altered on any Lot nearer to any street than the minimum exterior setback line, but in no case shall it extend further forward than the rear of the house except with the approval of the ARC.
- xxi) No shrubs, trees, fences or structures of any type shall be erected which may partially or fully block vehicular sight distance, as set forth in the Virginia Highway Department regulations, on any roadway.
- xxii) No lot owner shall disturb or siltate shoulder, backslopes, ditches, pavement, curb and gutter, driveway culverts, or any other improvements within the public right-of-way. Each Lot Owner agrees to be responsible for disturbances, damages, and/or siltation caused by themselves, their employees, suppliers, contractors, or others, and shall have fourteen (14) days from the receipt of a letter from the developer and/or the ARC to correct the damage. If a Lot Owner fails to correct the damage in a workmanlike manner, then the developer or its assigns shall have the right to correct the damage and bill the Lot Owner directly on a cost-plus-fifty-percent (50%) basis. If a Lot Owner does not make payment within thirty (30) days of presentation of the bill, a two percent (2%) per month service charge shall be applied to such bill.

- xxiii) Any one or more of the Covenants and Restrictions imposed in Paragraphs a through v hereof may be waived, modified, or rescinded, in whole or in part, as to all of the property or any Lot, by written instrument of the ARC.
- xxiv) Invalidation of any of these covenants and conditions, by court adjudication or otherwise shall in no way modify, affect, or invalidate any of the other covenants and conditions contained herein which shall remain in full force and effect.
- xxv) Each and every covenant and condition herein imposed may be enforced by the undersigned or the owner of any Lot by appropriate proceedings at law or in equity against any party violating or attempting or threatening to violate the same to prevent or rectify such violation and or recover damages therefore. The failure of an owner or the undersigned to bring any such proceeding shall not be considered as a waiver of any rights at law or in equity that any such party may have for past or future violation of any covenant herein contained
- xxvi) These covenants and conditions are to run with the land and shall be binding upon subsequent owner or owners and all parties claiming through or under such owner or owners for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the owners of the Lots has been recorded, revoking said covenants, or agreeing to change said covenants in whole or in part.

Douglas R. Sowers, Applicant

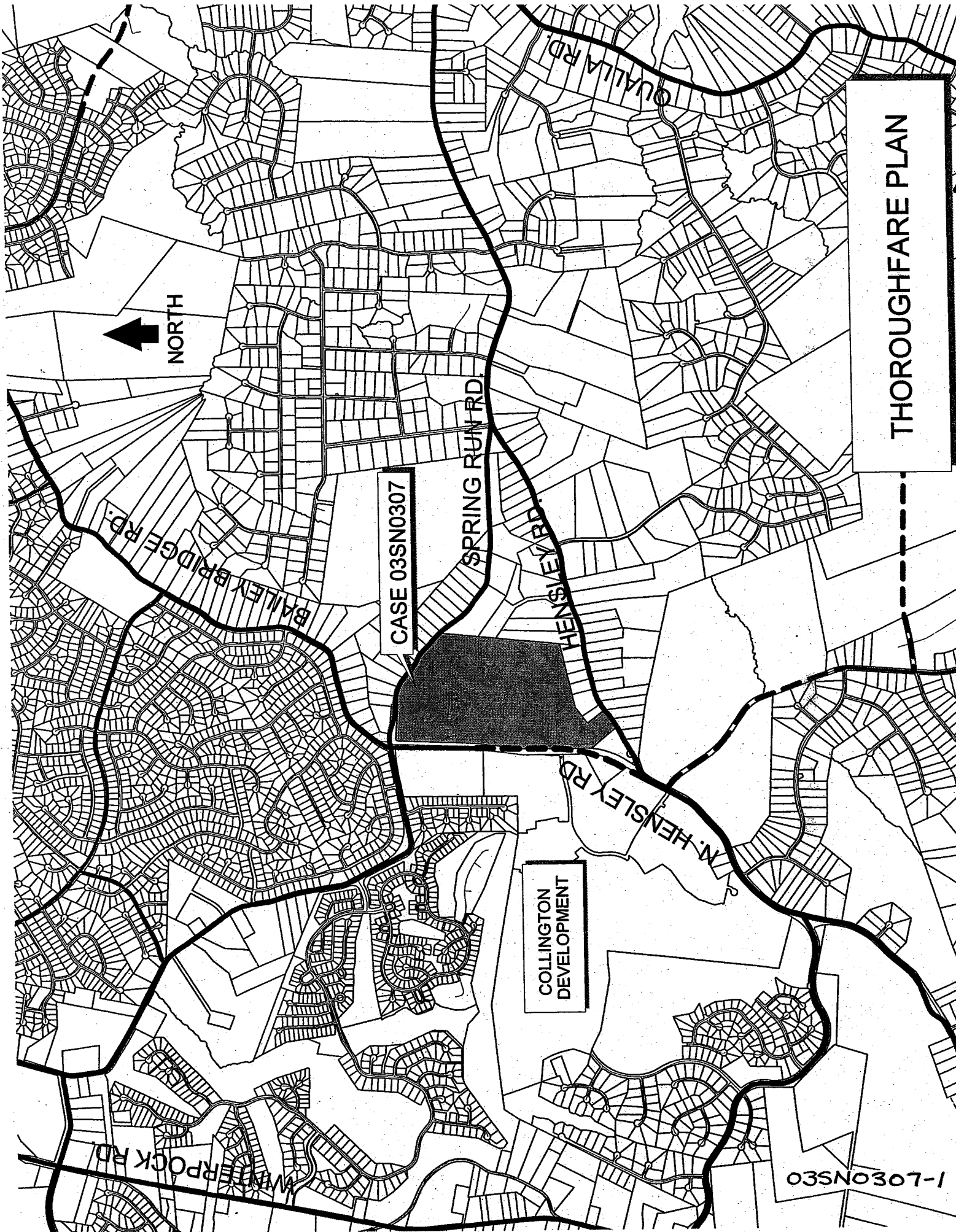
By 
Oliver D. Rudy



03SN0307

Rez: A TO R-12
w/C.U.P.D.

1000 0 1000 Feet



THOROUGHFARE PLAN



NORTH

CASE 03SN0307

SPRING RUN RD.

COLLINGTON
DEVELOPMENT

HENSLEY RD.

M. HENSLEY RD.

BAILEY BRIDGE RD.

WINDERPOCK RD.

03SN0307-1



NORTH

**POSSIBLE CASH PROFFER CREDIT
FOR THIS ROAD IMPROVEMENT**

SPRING RUN RD.

HENSLEY RD.

BAILEY BRIDGE RD.

N. HENSLEY RD.

CASE 03SN0307

03SN0307-2